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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,504	01/26/2005	Armin Fehn	WAS0674PUSA	1462
22045	7590	09/21/2006	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			ZIMMER, MARC S	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/522,504

Applicant(s)

FEHN ET AL.

Examiner

Marc S. Zimmer

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/03/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner is uncertain as to the meaning of the designation "0.5" before the recitation of cyclooctadiene and norbornadiene. It is suspected that what had been intended was "1,5" as indicators of placement of the alkenyl groups but this was not readily verified.

Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by the abstract for SU 1512997, which contemplates curing a vinyl group-functionalized polyorganosiloxane with an organohydrogensiloxane in the presence of acetylacetonatodicarbonylrhodium (I).

Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by the abstract for the article entitled "Rhodium Complexes as Catalysts for Hydrosilylation Crosslinking of Silicone Rubber" published in the *Journal of Applied Polymer Science* (1985), 30(5), 1837-46.

Art Unit: 1712

It is contemplated therein Rh(acac)₃ may be employed as catalyst for facilitating the crosslinking of vinyl group-containing silicones.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 3015890.

This document, likewise, teaches the vulcanization of addition-curable silicone compositions with Rh(acac)₃.

Claims 1-2, 5 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al., U.S. Patent # 4,026,835 for their disclosure of the preparation of silicone foam materials that, in one embodiment (column 3, lines 36-49) are prepared by combining all of an organohydrogensiloxane, a silanol-terminated polyorganosiloxane, and an alkenyl-functional polysiloxane with one of various rhodium catalysts including RhCl(CO){P(C₆H₅)₃}₂ (see column 5, line 21). Two-part compositions where the alkenyl-functional polymer is sequestered from the crosslinker or catalyst is also contemplated therein.

Claims 1-2, 5 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Takago et al., U.S. patent # 5,312,885. Takago describes addition-curable compositions comprising the materials delineated in column 2, line 23 to column 3, line 2. Exemplary of the rhodium catalysts is rhodium acetate dimer (column 4, line 66).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the abstract for SU 1512997. This reference does not expressly contemplate formulating the composition as two parts but this claimed aspect is, nonetheless, obvious as it is well known to segregate one or more of the crosslinking agent and/or catalyst from the base polymer to enhance shelf life. Also, molded products are an obvious application of the vulcanizates set forth therein.

As for claims 3 and 4, the incorporation of heat stabilizers into silicone elastomer matrices is widely practiced as is reflected by the cursory mention they often receive when describing usual additives in the silicones art and is, therefore, obvious. "It is prima facie obvious to add a known ingredient to a known composition for its known function." *In re Lindner* 173 USPQ 356; *In re Dial et al* 140 USPQ 244. Further, the heat stabilizers recited in claim 4 are precisely those that are repeatedly identified in the art.

Claims 3-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the abstract for the article entitled "Rhodium Complexes as Catalysts for Hydrosilylation Crosslinking of Silicone Rubber" published in the *Journal of Applied Polymer Science* (1985), 30(5), 1837-46 for the same reasons that they were deemed obvious over the Russian patent. Claims 3-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 3015890 for the same reasons offered above.

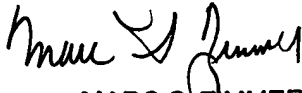
Claims 3-4 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable Takago et al., U.S. Patent # 5,312,885 for the same reasons offered above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc S. Zimmer whose telephone number is 571-272-1096. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 11, 2006


MARC S. ZIMMER
PRIMARY EXAMINER